

**Tuesday, August 24, 2004**

The Board met at its offices at 450 N Street, Sacramento, at 9:30 a.m., with Ms. Migden, Chairwoman, Mr. Leonard and Mr. Chiang present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

### **HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE CLAIM HEARING**

Charlotte L. Aszklar, et al., 246142

2003, \$102.00

2003, \$1.00 or more

2003, \$347.50

2003, \$347.50

2003, \$347.50

2003, \$347.50

2003, \$347.50

2003, \$340.00

2003, \$207.50

For Claimant:

Jacqueline Shupe, Representative

Gwen Stitzwell, Witness

For Franchise Tax Board:

Suzanne Small, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the Board has jurisdiction over the appeal of Marjorie S. Chrenko.

Whether respondent properly denied appellants' claims for property tax assistance.

Appellant's Exhibit: Memorandum and Miscellaneous Documents (Exhibit 8.1)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

Mr. Leonard requested that the Franchise Tax Board's denial letter for Homeowner and Renter Property Tax Assistance state the reason for the denial of assistance more clearly.

The Board recessed at 9:40 a.m. and reconvened at 10:10 a.m. with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

### **CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING**

David and Elizabeth Kuhn, 246267

1994, \$7,927.62 Claim for Refund

1995, \$8,794.83 Claim for Refund

1996, \$1,368.03 Claim for Refund

For Claimant:

David Kuhn, Taxpayer

Elizabeth Kuhn, Taxpayer

For Franchise Tax Board:

Dennis Haase, Tax Counsel

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Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether or not appellants have established the necessary legal and factual prerequisites for application of the doctrine of equitable estoppel in this appeal so as to preclude the Franchise Tax Board from asserting the statute of limitations as a bar to appellants' 1994, 1995, and 1996 refund claims.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 8.2)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

### HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE CLAIM HEARINGS

Richard H. Francis, Jr., 251091

2003, \$347.50

For Claimant: Richard H. Francis, Jr., Claimant

For Franchise Tax Board: Jean Cramer, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether respondent properly denied appellant's claim for property tax assistance.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Beatrice Stepp, 251285

2003, \$347.50

For Claimant: John W. Hawkins, Representative  
Beatrice Stepp, Claimant

For Franchise Tax Board: Jean Cramer, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether respondent properly denied appellant's claim for property tax assistance.

Appellant's Exhibit: Statement (Exhibit 8.3)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Ms. Mandel reported that while sitting on the Franchise Tax Board, she requested that staff review the types of cases that come before the Board of Equalization and review the process, particularly the forms and instructions for the Homeowner and Renter Property Tax Assistants Program, to determine whether the process and information provided is easily understood by the public and if it can be improved. Ms. Migden requested Board of Equalization staff to follow up with Franchise Tax Board staff on their findings.

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**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS****Anthony L. Edwards, 241056**

1998, \$2,120.00 Assessment

For Appellant:

Anthony L. Edwards, Taxpayer

For Franchise Tax Board:

Jean Cramer, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether respondent properly considered appellant's non-California-source income in the calculation of appellant's California tax liability.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 8.4)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

**Walter B. Dilts, Jr., and Phyllis A. Kappeler, 238349**

1994, \$931,547.00 Assessment

1995, \$41,554.00 Assessment

For Appellant:

Richard Todd Luoma, Attorney

Walter B. Dilts, Jr., Taxpayer

For Franchise Tax Board:

Michael Smally, Tax Counsel

Jozel Brunett, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellants became Nevada residents during 1994 or 1995.

Alternatively, whether appellants have shown that interest should be abated.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

**Alan F. and Rita K. Shugart, 221743**

Action: The Board took no action.

**Richard Hensel, 235794**

1989, \$2,631.18 Assessment

For Appellant:

Richard Hensel, Taxpayer

For Franchise Tax Board:

Kathleen Cooke, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has shown interest should be abated?

Whether respondent properly issued state tax liens against appellant and properly imposed the lien fees?

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

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**Reynaldo Castro, 237011**

2000, \$2,939.00 Tax, \$734.75 Late Filing Penalty

For Appellant: Reynaldo Castro, Taxpayer

For Franchise Tax Board: Christine Roloff, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has demonstrated error in the proposed assessment.  
Whether there is reasonable cause for abatement of the late filing penalty.  
Whether the Board should impose a frivolous appeal penalty.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

**Douglas C. Roberts, 221165**

2000, \$1,762.00 Tax, \$440.50 Failure to File Penalty, \$475.00 Notice and Demand Penalty

For Appellant: Douglas C. Roberts, Taxpayer

For Franchise Tax Board: Suzanne Small, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has shown that respondent incorrectly determined the amount of his income for 2000.

Whether appellant has shown that he was not required to file a tax return for 2000.

Whether appellant has shown that he had "reasonable cause" for his failure to file upon notice and demand.

Whether a frivolous appeal penalty should be imposed against appellant.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board submitted the appeal for decision.

**Mark R. Raus, 220515**

2000, \$7,953.00 Tax, \$1,988.25 Late Filing Penalty, \$518.11 Claim for Refund

For Appellant: Mark R. Raus, Taxpayer

David Rose, Witness

For Franchise Tax Board: Christine Roloff, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has demonstrated error in the proposed assessment.  
Whether there is reasonable cause for abatement of the late filing penalty.  
Whether the Board has jurisdiction to review respondent's imposition of a frivolous return penalty and, if so, whether such penalty should be abated.  
Whether the Board should impose a frivolous appeal penalty.

Appellant's Exhibit: Time Line (Exhibit 8.5)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the appeal be continued later in the day.

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**SPECIAL TAXES APPEALS HEARINGS****Raffi Ohanes Sepetjian, 195054**

1-1-99 to 12-31-01, \$62,931.34 Tax, \$887.67 Failure to File Penalty

For Petitioner:

Robert Petersen, CPA

Raffi Sepetjian, Taxpayer

Tiffany Sepetjian, Witness

For Property and Special Taxes Department: Monica Gonzalez Brisbane, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board's Excise Taxes Division correctly determined petitioner's understated taxable tobacco products purchases.

Whether relief from the 10 percent penalty for failure to file quarterly returns for 1999 is warranted.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

**Ashok V. Parmar, 89000005150, 89000959630**

12-19-93 to 3-8-95, \$69,147.00 Tax, \$6,914.70 Failure to File Penalty, \$17,286.75 Fraud Penalty

12-19-93 to 9-13-94, \$234.30 Tax, \$23.43 Failure to File Penalty, \$58.58 Fraud Penalty

**Purnima A. Parmar, 89816, 89823**

12-19-93 to 3-8-95, \$69,147.00 Tax, \$6,914.70 Failure to File Penalty, \$17,286.75 Fraud Penalty

12-19-93 to 9-13-94, \$234.30 Tax, \$23.43 Failure to File Penalty, \$58.58 Fraud Penalty

**Mahinder Parmar, 89678, 89819**

12-19-93 to 3-8-95, \$69,147.00 Tax, \$6,914.70 Failure to File Penalty, \$17,286.75 Fraud Penalty

12-19-93 to 9-13-94, \$234.30 Tax, \$23.43 Failure to File Penalty, \$58.58 Fraud Penalty

For Petitioner:

Abe Golomb, Representative

For Property and Special Taxes Department: Monica Gonzalez Brisbane, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issues: Whether the Notices of Determination were issued to the appropriate party.

Whether the evidence supports a reduction of the audited understatement of cigarette tax.

Whether the fraud penalty is warranted.

Whether relief from the penalty for failure to file returns is warranted.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

**LEGAL APPEALS MATTERS, CONSENT**

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

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John F. Power, Jr., 220125

1-1-00 to 9-30-00, \$32,395.51 Tax, \$4,276.10 Penalty

Action: Redetermine as recommended by the Appeals Division.

Holly Ann Juergens, 218163

7-1-99 to 6-30-02, \$27,036.57 Tax, \$2,703.66 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Dawning Technologies, Inc., 119171

1-1-93 to 12-31-00, \$12,576.15 Tax, \$00.00 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

Bashar Matee Attisha, 260943

February 26, 2004 Notice of Seizure and Forfeiture

Action: Determined that staff properly seized the cigarettes.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT**

The Board deferred consideration of the following matters: *Omar Ahmad, 202283; Estate of Alice Godsil, 222708; Dajasha J. Love, 240774; Northwest Energetic Services LLC, 236696; and, Paul Simmons, 224039.*

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Omar Ahmad, 202283

2000, \$4,031.86 Claim for Refund Tax

Action: The Board deferred consideration of this matter.

Gabriel Blanc-Depotex, 237022

1999, \$299.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Margaret Carlozzi, 245928

2001, \$5,280.12 Assessment

Action: Dismissed for lack of jurisdiction.

Willy G. and Myrna G. Chang, 242632

1999, \$5,022.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Eva M. and Curtis W. Clark, 224322

1997, \$963.00 Claim for Refund

1998, \$100.00 Claim for Refund

Action: Modify the action of the Franchise Tax Board.

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**John F. and Vann C. Cornelius, 224474**

2000, \$6,595.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

**Johnny M. Duenas, 241052**

2001, \$1,284.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Rosalind A. Dunn, 238346**

1990, \$159.50 Penalties, \$1.00 or more Assessment

Action: Modify the action of the Franchise Tax Board.

**Sanford Fernandez, 222704**

2000, \$1,845.00 Tax, \$996.75 Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$1,000.00 frivolous appeal penalty.

**Benjamin A. Garcia, 220805**

1993, \$2,527.61 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

**Michael and Ann Marie Gibson, 220764**

1999, \$2,626.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

**Estate of Alice Godsil, 222708**

1999, \$4,598.34 Claim for Refund

Action: The Board deferred consideration of this matter.

**Carol Fraser Hall, 213128**

1986, \$4,240.85 Assessment

1987, \$4,538.44 Assessment

1988, \$2,961.50 Assessment

1989, \$6,435.00 Assessment

Action: Modify the action of the Franchise Tax Board.

**LaVonne A. Hodgson, 219079**

2000, \$288.00 Tax, \$100.00 Late Filing Penalty, \$72.00 Notice and Demand Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$5,000.00 frivolous appeal penalty.

**Howard Hughes Medical Institute, 246269**

8-31-02, \$13,729.03 Claim for Refund

Action: Modify the action with concession by the Franchise Tax Board.

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**JSR, LLC, 222857**

1999, \$381.35 Tax

2000, \$375.06 Tax

Action: Dismissed for lack of jurisdiction.

**Dajasha J. Love, 240774**

2001, \$1,056.00 Tax, \$264.00 Failure to Furnish Information Penalty

Action: The Board deferred consideration of this matter.

**Robert E. Lyon, 222814**

1998, \$2,519.00 Tax, \$629.75 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

**Raymond L. Martinez, 235554**

1996, \$709.42 Assessment

Action: Modify the action of the Franchise Tax Board.

**Joseph Leonard Neufeld, 221107**

2000, \$628.00 Tax, \$416.00 Penalties

Action: Sustain the action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty.

**Northwest Energetic Services LLC, 236696**

1997, \$997.60 Claim for Refund

1998, \$198.30 Claim for Refund

1999, \$7,743.11 Claim for Refund

2000, \$12,538.86 Claim for Refund

2001, \$7,013.95 Claim for Refund

Action: The Board deferred consideration of this matter.

**Kirk C. Odegaard, 203278**

1999, \$4,225.00 Tax, \$1,056.25 Late Filing Penalty, \$1,056.25 Notice and Demand Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$1,000.00 frivolous appeal penalty.

**George B. Pickett, 237134**

1999, \$738.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**PR&A, Inc. (Patricia L. Riley, Assumer), 237047**

2001, \$800.00 Tax, \$200.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board.

**David Sclafani, 217209**

2000, \$4,076.00 Tax, \$1,019.00 Late Filing Penalty, \$1,019.00 Notice and Demand Penalty

Action: Sustain the action of the Franchise Tax Board.



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**Paul Simmons, 224039**

2000, \$352.32 Assessment

Action: The Board deferred consideration of this matter.

**Michael S. Spiro, 221744**

2000, \$308.00 Tax, \$100.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

**Clyde A. Staley, 213097**

1999, \$392.00 Tax, \$100.00 Late Filing Penalty

2000, \$773.00 Tax, \$193.25 Late Filing Penalty, \$193.75 Notice and Demand Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$1,000.00 frivolous appeal penalty.

**Khanh Q. Tran, 251064**

2000, \$389.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Howard Twomey, 241971**

1994, \$1,037.26 Assessment

1995, \$633.70 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Larry L. Vandermoon, 220088**

1999, \$1,500.00 Tax, \$375.00 Failure to File Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$5,000.00 frivolous appeal penalty.

**Thomas C. and Mary F. Wischmeyer, 241851**

1995, \$3,045.00 Claim for Refund

1996, \$4,885.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

**Donald R. Youngman, 245912**

2000, \$4,885.00 Tax, \$1,221.25 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

**Brett D. Zall, 237215**

1999, \$105.88 Tax

Action: Sustain the action of the Franchise Tax Board.

**Jason C. Baron, 203446**

1999, \$17,414.00 Tax, \$4,353.50 Late Filing Penalty, \$5,796.75 Notice and Demand Penalty

Action: Deny the petition for rehearing.

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**HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT**

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

**Felix P. Alejandro, 245461**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Barbara P. Allen, 241708**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Jimmie Anderson, 251868**

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

**Arsenio Avellaneda, 241724**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Brenda G. Bell, 240030**

2002, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Jesus Borunda, 244363**

2003, \$347.50

Action: Modify the action of the Franchise Tax Board.

**Ellen M. Branchaud, 244795**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Gwendolyn Brown, 241830**

2001, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

**Isaak Brusilovskiy, 245446**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Norma I. Bryson, 241739**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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**Sandra Buoni, 251831**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**James Lee Chichester, 239684**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Darlene Church, 241649**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Andri Ciccone, 250131**

2003, \$349.00

Action: Sustain the action of the Franchise Tax Board.

**Josephina L. Clark, 250134**

2003, \$327.50

Action: Sustain the action of the Franchise Tax Board.

**L. D. Coffey, 243625**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Rozika J. Cossey, 250174**

2003, \$340.00

Action: Sustain the action of the Franchise Tax Board.

**Clifford K. Crowley, 250179**

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

**Andrew A. Davis, 250340**

2003, \$30.00

Action: Sustain the action of the Franchise Tax Board.

**James Deaton, 241678**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Deborah K. Denny, 241683**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Diana DeSoto, 250400

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Le Van Dinh, 244196

2003, \$265.00

Action: Sustain the action of the Franchise Tax Board.

Vicente M. Ditona, Jr., 250405

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Lenore Dondick, 250412

2003, \$320.00

Action: Sustain the action of the Franchise Tax Board.

Zalman Erenburg, 250474

2003, \$265.00

Action: Sustain the action of the Franchise Tax Board.

Moisey Erenshteyn, 244195

2003, \$265.00

Action: Sustain the action of the Franchise Tax Board.

Lenina Etina, 245052

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Hormoz Fattahi, 244998

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Diane Fischer, 251453

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Betty Jane Flores, 245028

2003, \$736.36

Action: Sustain the action of the Franchise Tax Board.

Demitri Grachis, 245034

2003, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Rose Grimm, 251426

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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**Dorothy M. Hakenjos, 251397**

2003, \$235.00

Action: Sustain the action of the Franchise Tax Board.

**Betty Higgins, 251392**

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

**Ruth A. Hill, 244984**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Beatrice Hooker, 251395**

2003, \$340.00

Action: Sustain the action of the Franchise Tax Board.

**Brandon Hunt, 251098**

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

**Leo Hunter, 251391**

2003, \$332.50

Action: Sustain the action of the Franchise Tax Board.

**Allen Imboden, 244732**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Robert E. James, 244155**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Shirley Jewell, 244995**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**John Kelly, 245001**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Kwai Chun Lam, 252935**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

**Jeh Bin C. Lee, 252934**

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Hui Tsung Li, 256232

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Aaron Littles, 244225

2003, \$347.00

Action: Sustain the action of the Franchise Tax Board.

Andres Mendoza, 245592

2003, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Tonya M. Moore, 236853

1999, \$200.00

2000, \$190.00

2002, \$347.50

Action: As to 1999 and 2000 sustain and as to 2002 modify the action of the Franchise Tax Board.

Lahkeka R. Muhammad, 252868

2003, \$347.50

Action: Modify the action of the Franchise Tax Board.

Leonard Napolitan, 246146

2003, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Timothy E. O'Hanlon, 255088

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Richard P. Patterson, 242253

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Rose M. Perea, 252899

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Mark Piini, 252905

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Helen Poon, 252957

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Scott L. Raborg, 241676

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Debra G. Randelston, 244336

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

John L. Riopel, 252921

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Ana C. Rivera, 252922

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Antoinette Rizkal, 252924

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Paul R. Robinson, 252925

2003, \$300.00

Action: Sustain the action of the Franchise Tax Board.

Charles William Ruth, III, 252966

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Dean P. Sanchez, 245017

2003, \$332.50

Action: Sustain the action of the Franchise Tax Board.

Janna Savina, 251744

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Theresa M. Slater, 243390

2000, \$326.46

Action: Sustain the action of the Franchise Tax Board.

Rafael David Soriano, 252113

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Nunik Stamboltsyan, 252120

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

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Anghela Stepanyan, 252122

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

David Stokes, 245042

2002, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Frederick D. Stokes, Jr., 242318

2002, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Rachel Thompson, 245044

2003, \$347.00

Action: Sustain the action of the Franchise Tax Board.

France Ward, 243479

2002, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Maude Washington, 253890

2003, \$340.00

Action: Sustain the action of the Franchise Tax Board.

Frank Williams, 252677

2003, \$340.00

Action: Sustain the action of the Franchise Tax Board.

**SALES AND USE TAX MATTERS, REDETERMINATIONS AND DENIALS OF CLAIMS FOR REFUND, CONSENT**

With respect to the Sales and Use Tax Matters, Redeterminations and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish not participating in accordance with Government Code section 87105, Mr. Chiang not participating in *Paramount Pictures Corporation, 195969; DirectTV Operations, Inc., 267101*; and, *Boeing Satellite Systems, Inc., 266963*; the Board made the following orders:

Paramount Pictures Corporation, 195969

1-1-96 to 6-30-99, \$54,295.30

Action: Approve the redetermination as recommended by staff. Mr. Chiang not participating, Mr. Parrish not participating in accordance with Government Code section 87105.

Iron Mountain Info Management, Inc., 199164

4-1-97 to 3-31-00, \$812,703.13

Action: Approve the redetermination as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.



**Tuesday, August 24, 2004**

**Victor Gomez, 166341**

7-1-98 to 9-30-01, \$64,277.23

Action: Approve the redetermination as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Linda Jones Enterprises, Inc., 169760**

1-1-99 to 9-30-01, \$50,037.49

Action: Approve the redetermination as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**McKesson Medical Surgical Minn. Supply, Inc., 215840**

10-1-98 to 9-30-01, \$193,041.59

Action: Approve the redetermination as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Master Lock Company, 131825**

4-1-97 to 12-31-99, \$212,155.20

Action: Approve the redetermination as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Cobe Cardiovascular, Inc., 192872**

1-1-97 to 6-30-00, \$152,140.62

Action: Approve the redetermination as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Gambro BCT, Inc., 187309**

1-1-97 to 6-30-00, \$144,738.63

Action: Approve the redetermination as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Gambro Renal Products, Inc., 190973**

1-1-97 to 6-30-00, \$144,717.34

Action: Approve the redetermination as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Klipsch, LLC, 251874**

8-1-99 to 12-31-02, \$58,634.94

Action: Approve the redetermination as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Newell Window Furnishings, Inc., 242682**

7-1-99 to 6-30-02, \$69,091.79

Action: Approve the redetermination as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Tuesday, August 24, 2004

**Executive Amenities-West, Inc., 265671**

1-1-99 to 12-31-99, \$58,626.57

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Basis, Inc., 266883**

4-1-00 to 12-31-02, \$125,061.24

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Kuroki International, Inc., 254700**

1-1-98 to 12-31-00, \$53,679.92

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**ABF Data Systems, Inc., 224056**

1-1-01 to 3-31-01, \$107,151.68

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**The C.I.T. Group/Equipment Financing, 266101**

7-1-99 to 6-30-03, \$100,491.63

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Resource Information Management Systems, Inc., 222088**

1-1-03 to 3-31-03, \$58,125.00

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Teamworks Communications, Inc., 265219**

7-1-00 to 3-31-01, \$62,637.43

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Charles Victor Richardson, 243817**

4-1-98 to 6-30-98, \$144,797.40

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

**Miramar Autoport 76, Inc., 144962**

4-1-00 to 6-30-01, \$55,894.00

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Tuesday, August 24, 2004

Enron Energy Services Operations, Inc., 243708

7-1-03 to 9-30-03, \$62,541.00

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

TMT, Inc., 234646

7-1-00 to 9-30-00, \$119,711.41

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Quest Diagnostics Clinical Labs, 267108

1-1-99 to 12-31-00, \$280,833.78

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

DirectTV Operations, Inc., 267101

1-1-99 to 9-30-99, \$617,621.79

Action: Approve the denial of claim for refund as recommended by staff. Mr. Chiang not participating, Mr. Parrish not participating in accordance with Government Code section 87105.

Troll Book Club, LLC, 224058

4-1-01 to 3-31-03, \$84,218.01

Action: Approve the denial of claim for refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Boeing Satellite Systems, Inc., 266963

1-1-01 to 3-31-03, \$57,320.08

Action: Approve the denial of claim for refund as recommended by staff. Mr. Chiang not participating, Mr. Parrish not participating in accordance with Government Code section 87105.

### **SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT**

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish not participating in *BCI Coca-Cola Bottling Company, L.A.*, 266706; *Disney Worldwide Services*, 262702; and, *Hewlett-Packard Financial Service*, 266090; Mr. Chiang not participating in *The C.I.T. Group/Equipment Financing*, 267015; *Disney Worldwide Services*, 262702; *Hewlett-Packard Financial Service*, 266090; *DirectTV*, 262626; *DirectTV Operations, Inc.*, 100653; and, *Boeing Satellite Systems, Inc.*, 223385; Mr. Chiang not participating in accordance with Government Code section 87105 in *Best Buy Store L.P.*, 263451; Ms. Mandel not participating in accordance with Government Code section 87105 in *ExxonMobil Oil Corporation*, 266099; the Board made the following orders:

Tuesday, August 24, 2004

**The C.I.T. Group/Equipment Financing, 267015**

7-1-99 to 6-30-03, \$191,507.08

Action: Approve the credit and cancellation as recommended by staff. Mr. Chiang not participating.

**High Street Ventures, LLC, 262610**

7-1-00 to 8-11-00, \$56,684.43

Action: Approve the credit and cancellation as recommended by staff.

**Golden Gate Software, Inc., 266210**

1-1-03 to 6-30-03, \$59,015.46

Action: Approve the credit and cancellation as recommended by staff.

**Gero Vita International, Inc., 266507**

10-1-00 to 9-30-02, \$130,028.16

Action: Approve the credit and cancellation as recommended by staff.

**BCI Coca-Cola Bottling Company, L.A., 266706**

1-1-02 to 6-30-02, \$205,108.00

Action: Approve the credit and cancellation as recommended by staff. Mr. Parrish not participating.

**Gadzoox Microsystems, Inc., 265299**

1-1-03 to 3-31-03, \$796,157.50

Action: Approve the credit and cancellation as recommended by staff.

**Devinderpal S. Bhullar, 265639**

4-1-03 to 9-30-03, \$74,781.05

Action: Approve the credit and cancellation as recommended by staff.

**Owens & Minor West, Inc., 184338**

7-1-99 to 12-31-01, \$1,031,577.72

Action: Approve the refund as recommended by staff.

**Technicolor Cinema Distribution, 261926**

6-29-03 to 9-27-03, \$333,397.57

Action: Approve the refund as recommended by staff.

**Nissin Foods Company, Inc., 262565**

1-1-04 to 3-31-04, \$105,566.18

Action: Approve the refund as recommended by staff.

**Executive Amenities-West, Inc., 90171**

1-1-99 to 12-31-99, \$67,419.42

Action: Approve the refund as recommended by staff.

**Tuesday, August 24, 2004**

**Mac Universe, Inc., 219140**

10-1-02 to 12-31-02, \$57,922.68

Action: Approve the refund as recommended by staff.

**Disney Worldwide Services, 262702**

10-1-02 to 12-31-02, \$263,516.75

Action: Approve the refund as recommended by staff. Mr. Parrish and Mr. Chiang not participating.

**Cal Poly Pomona Foundation, Inc., 238549**

4-1-00 to 6-30-03, \$94,649.69

Action: Approve the refund as recommended by staff.

**F P C, Inc., 234656**

7-1-00 to 9-30-03, \$156,143.88

Action: Approve the refund as recommended by staff.

**Easterday Janitorial Supply Company, 262562**

4-1-01 to 6-30-01, \$57,258.35

Action: Approve the refund as recommended by staff.

**The Gap Stores, Inc., 144762**

4-1-98 to 12-31-02, \$2,270,512.42

Action: Approve the refund as recommended by staff.

**Therien & Company, Inc., 252765**

10-1-03 to 12-31-03, \$56,806.42

Action: Approve the refund as recommended by staff.

**Golden Years Medical, Inc., 261927**

10-1-00 to 12-31-03, \$56,057.39

Action: Approve the refund as recommended by staff.

**Winston Marketing & Communication, Inc., 143736**

7-1-98 to 9-30-01, \$165,196.05

Action: Approve the refund as recommended by staff.

**Comm Air, 259003**

4-1-02 to 6-30-02, \$61,492.00

Action: Approve the refund as recommended by staff.

**Basis, Inc., 220272**

4-1-00 to 6-30-03, \$72,680.27

Action: Approve the refund as recommended by staff.

Tuesday, August 24, 2004

Total-Western, Inc., 262703

7-1-99 to 6-30-03, \$63,973.18

Action: Approve the refund as recommended by staff.

ESRI, Inc., 263187

7-1-00 to 6-30-03, \$141,903.90

Action: Approve the refund as recommended by staff.

Applied Medical Resources Corporation, 264694

1-1-00 to 12-31-02, \$74,432.19

Action: Approve the refund as recommended by staff.

Geoffrey L. Gruber, 234093

4-1-00 to 12-31-02, \$54,673.47

Action: Approve the refund as recommended by staff.

Thornton Winery, 263996

1-1-01 to 12-31-03, \$53,339.72

Action: Approve the refund as recommended by staff.

North Island Financial Credit Union, 115922

1-1-98 to 3-31-01, \$127,401.82

Action: Approve the refund as recommended by staff.

KLA-Tencor Corporation, 261897

4-1-98 to 6-30-01, \$476,380.06

Action: Approve the refund as recommended by staff.

Pacific Coast Building Products, Inc., 250018

1-1-02 to 3-31-02, \$384,377.80

Action: Approve the refund as recommended by staff.

Le-Croy Research Systems Corporation, 252343

4-1-01 to 9-30-03, \$85,269.34

Action: Approve the refund as recommended by staff.

Schindler Elevator Corporation, 262550

1-1-04 to 3-31-04, \$50,323.20

Action: Approve the refund as recommended by staff.

Diageo North America, Inc., 195931

1-1-98 to 12-31-02, \$1,281,217.51

Action: Approve the refund as recommended by staff.

**Tuesday, August 24, 2004**

**Arrow International, Inc., 192991**

4-1-00 to 9-30-03, \$91,985.68

Action: Approve the refund as recommended by staff.

**AWS of California, Inc., 265452**

7-1-96 to 12-31-00, \$58,480.63

Action: Approve the refund as recommended by staff.

**ExxonMobil Oil Corporation, 266099**

1-1-01 to 5-31-02, \$247,779.89

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

**Hogan Automotive Group, Inc., 263994**

1-1-01 to 12-31-03, \$95,359.47

Action: Approve the refund as recommended by staff.

**Rockwell Collins, Inc., 217744**

10-1-97 to 3-31-02, \$373,819.11

Action: Approve the refund as recommended by staff.

**Teamworks Communications, Inc., 236977**

7-1-00 to 3-31-01, \$160,814.55

Action: Approve the refund as recommended by staff.

**Monatex, Ltd., 194667**

7-1-98 to 6-30-01, \$85,545.97

Action: Approve the refund as recommended by staff.

**Hewlett-Packard Financial Service, 266090**

4-1-99 to 12-31-01, \$1,336,705.35

Action: Approve the refund as recommended by staff. Mr. Parrish and Mr. Chiang not participating.

**Aixtron, Inc., 251384**

1-1-01 to 3-31-01, \$98,723.74

Action: Approve the refund as recommended by staff.

**Netflix, Inc., 258610**

10-1-99 to 9-30-03, \$317,354.94

Action: Approve the refund as recommended by staff.

**Qwest N. Limited Partnership, 259855**

4-1-02 to 6-30-02, \$120,426.44

Action: Approve the refund as recommended by staff.

Tuesday, August 24, 2004

Golden Gate Software, Inc., 255340

4-1-00 to 12-31-02, \$270,485.00

Action: Approve the refund as recommended by staff.

Marubeni Disc Systems, Inc., 250021

4-1-03 to 6-30-03, \$131,913.75

Action: Approve the refund as recommended by staff.

Diversiform, Inc., 208849

4-1-00 to 12-31-02, \$66,277.31

Action: Approve the refund as recommended by staff.

Bruker Medical, Inc., 236974

10-1-00 to 12-31-00, \$75,044.17

Action: Approve the refund as recommended by staff.

Gallus, Inc., 254370

10-1-03 to 12-31-03, \$98,445.92

Action: Approve the refund as recommended by staff.

ISG Acquisition Corporation, 254748

10-1-00 to 12-31-00, \$64,665.33

Action: Approve the refund as recommended by staff.

Phillips Plastics Corporation, 262624

1-1-01 to 3-31-03, \$97,947.39

Action: Approve the refund as recommended by staff.

FKI Industries, Inc., 196304

7-1-99 to 3-31-00, \$122,625.06

Action: Approve the refund as recommended by staff.

DirectTV, 262626

10-1-97 to 9-30-00, \$931,646.84

Action: Approve the refund as recommended by staff. Mr. Chiang not participating.

R &amp; C Motor Corporation, 263992

1-1-01 to 12-31-03, \$112,315.33

Action: Approve the refund as recommended by staff.

Quest Diagnostics Clinical Labs, 160634

1-1-99 to 12-31-00, \$393,211.70

Action: Approve the refund as recommended by staff.



**Tuesday, August 24, 2004**

**Pike's Mobil, Inc., 224055**

4-1-00 to 6-30-03, \$75,841.11

Action: Approve the refund as recommended by staff.

**Cornerstone Display Group, Inc., 88313**

11-9-95 to 12-31-98, \$335,171.69

Action: Approve the refund as recommended by staff.

**DirectTV Operations, Inc., 100653**

10-1-97 to 9-30-00, \$958,291.84

Action: Approve the refund as recommended by staff. Mr. Chiang not participating.

**Best Buy Store L.P., 263451**

10-1-97 to 9-30-00, \$381,562.14

Action: Approve the refund as recommended by staff. Mr. Chiang not participating in accordance with Government Code section 87105.

**Stephen Dennis Rosen, 266144**

7-1-99 to 12-31-99, \$69,801.60

Action: Approve the refund as recommended by staff.

**Boeing Satellite Systems, Inc., 223385**

1-1-01 to 3-31-03, \$6,647,759.44

Action: Approve the refund as recommended by staff. Mr. Chiang not participating.

**Sequoia Health Services, 217005**

1-1-00 to 12-31-03, \$65,459.98

Action: Approve the refund as recommended by staff.

**Lobel Financial Corporation, 261569**

7-1-03 to 12-31-03, \$193,564.87

Action: Approve the refund as recommended by staff.

**Logicalis, Inc., 258817**

10-1-03 to 12-31-03, \$107,205.74

Action: Approve the refund as recommended by staff.

**Capital One Auto Finance, Inc., 193826**

7-1-99 to 12-31-01, \$179,110.66

Action: Approve the refund as recommended by staff.

**Roma Limited Liability Company, 245522**

1-1-03 to 9-30-03, \$50,816.28

Action: Approve the refund as recommended by staff.

**Challenge Financial Services, Inc., 262772**

1-1-00 to 12-31-01, \$67,447.36

Action: Approve the refund as recommended by staff.

Tuesday, August 24, 2004

**SPECIAL TAXES MATTERS, REDETERMINATIONS AND RELIEF OF PENALTIES, CONSENT**

With respect to the Special Taxes Matters, Redeterminations and Relief of Penalties, Consent Agenda, upon a single motion of Mr. Parrish, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

**Union Oil Company of California, 167996**

1-1-01 to 12-31-01, \$1,650,751.79

Action: Approve the redetermination as recommended by staff.

**Powerine Oil Company, 166115**

1-1-01 to 12-31-01, \$218,421.49

Action: Approve the redetermination as recommended by staff.

**Equiva Trading Company, 165536**

1-1-01 to 12-31-01, \$239,737.45

Action: Approve the redetermination as recommended by staff.

**Commercial Filter Recycling, 215368**

1-1-98 to 12-31-98, \$86,954.40

Action: Approve the redetermination as recommended by staff.

**McLane/Suneast, Inc., 191609**

1-1-98 to 12-31-98, \$78,366.07

Action: Approve the redetermination as recommended by staff.

**Ralphs Grocery Company, 265918**

4-1-04 to 4-30-04, \$77,634.45

Action: Approve the relief of penalty as recommended by staff.

**SPECIAL TAXES MATTERS, REFUNDS, CONSENT**

With respect to the Special Taxes Matters, Refunds, Consent Agenda, upon a single motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

**Kansas City Life Insurance Company, 259202**

1-1-02 to 12-31-02, \$66,077.20

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Tuesday, August 24, 2004**

Young's Market Company, LLC, 266894

1-1-01 to 12-31-03, \$170,146.99

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

### **PROPERTY TAX MATTER, CONSENT**

#### **Petition for Penalty Abatement on Unitary Escape Assessment**

Virgin Mobile USA, LLC, 252152

2003, \$475,000.00 Late Filing Penalty

Action: The Board deferred consideration of this matter.

### **LEGAL APPEALS MATTERS, ADJUDICATORY**

Mr. Chiang stated that he would not participate in the matter of *Beyond.Com Corporation, 181603, 181605, 202809*, in accordance with Government Code section 87105, and left the Boardroom.

*Beyond.Com Corporation, 181603, 181605, 202809*

10-1-98 to 12-31-99, -\$10,864.03 Tax, \$00.00 Negligence Penalty

1-1-00 to 1-23-02, \$00.00 Tax, \$00.00 Negligence Penalty

10-1-98 to 1-23-02, \$10,864.03 Claim for Refund

Considered by the Board: Hearing Notice Sent – Appearance Waived

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish, and Ms. Mandel voting yes, Mr. Leonard voting no, Mr. Chiang absent and not participating in accordance with Government Code section 87105, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

*PC Technologies, Inc., 158416*

1-1-98 to 12-31-00, \$00.00 Tax, \$67,610.35 Fraud Penalty

Considered by the Board: June 16, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Mr. Parrish moved to reduce the fraud penalty to negligence. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden and Ms. Mandel voting no, Mr. Chiang absent.

Mr. Chiang returned to the Boardroom.

Upon motion of Ms. Migden, seconded by Ms. Mandel and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Tuesday, August 24, 2004

**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS,  
ADJUDICATORY**

Steve E. and Frances T. Berman, 224325

2001, \$3,414.75 Claim for Refund

Considered by the Board: June 15, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Ms. Migden moved to sustain Franchise Tax Board. Mr. Parrish made a substitute motion to abate the late filing penalty, otherwise sustaining the action of the Franchise Tax Board. The substitute motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Jacqueline J. Ha, 240647

1999, \$3,044.32 Claim for Refund

Considered by the Board: June 15, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted a decision reversing the action of the Franchise Tax Board.

Gary M. Levin, 219879

1996, \$5,743.74 Claim for Refund

Considered by the Board: June 15, 2004

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating, the Board adopted a decision sustaining the action of the Franchise Tax Board and supporting a claim to the California Victim Compensation and Government Claims Board recommending favorable consideration of the request for relief filed by the taxpayer.

**HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTER,  
ADJUDICATORY**

See Yang, 242313

2002, \$347.50

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed. The Members noted that their records disclosed no contributions from this taxpayer, his agent or participants.

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

**Tuesday, August 24, 2004**

**SPECIAL TAXES MATTER, DENIALS OF CLAIMS FOR REFUND, ADJUDICATORY**

Sistema Internacional de Transporte de Autobuses, 242707

1-1-99 to 3-31-01, \$53,042.03

Presented for Separate Discussion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved the denial of claim for refund as recommended by staff.

**PROPERTY TAX MATTER NOT SUBJECT TO CONTRIBUTION DISCLOSURE  
STATUTE**

**Audit**

AT&T Communications, Inc., (2310)

2000 to 2002, \$50,410,000.00 Escaped Assessment, \$5,041,000.00 Penalty, \$9,498,300.00 In-Lieu Interest

Action: Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board adopted the audit escaped assessments, plus penalties and assessment in lieu of interest, as recommended by staff.

**ADMINISTRATIVE SESSION**

**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Migden, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California (Exhibit 8.6).

Frances A. Arneson, Information Systems Technician Supervisor II, Technology Services Division, Headquarters

Dorothy R. Blankenship, Executive Secretary I, Assessment Policy and Standards Division, Property and Special Taxes Department, Headquarters

Robert H. Blumer, Associate Tax Auditor, Torrance District Office

Dorothy M. Dunlap, Office Technician (T), West Covina District Office

Cindy Eaton, Business Taxes Compliance Specialist, Fuel Taxes Division, Property and Special Taxes Department, Headquarters

William J. Faiola, Supervision Tax Auditor II, Audit and Information Section, Sales and Use Tax Department, Headquarters

Darlene Renee Johnson, Business Taxes Representative, Return Analysis Section, Headquarters

**Tuesday, August 24, 2004**

Gerald F. Kelleher, Business Taxes Compliance Supervisor, Return Analysis Section, Headquarters  
Carol Jeanne Lymath, Tax Technician III, Return Analysis Section, Headquarters  
Philip L. Mosier, Staff Programmer Analyst (Specialist), Desktop Applications Unit, Technology Services Division, Headquarters  
Robert Palmer, Jr., Tax Technician III, Petitions Section, Sales and Use Tax Department, Headquarters  
Nanu K. Patel, Staff Programmer Analyst, Technology Services Division, headquarters  
Brenda J. Richardson, Tax Auditor, West Covina District Office  
Robert L. Riffle, Business Taxes Compliance Supervisor, Return Analysis Section, Headquarters  
Mary E. Saner, Tax Technician III, Special Procedures Section, Headquarters  
Paul O. Smith, Tax Counsel III, (Specialist), Appeals Division, Legal Department, Headquarters  
Alan J. Stagner, Business Taxes Administrator III, Norwalk District Office  
Gwendolyn E. Walkley, Associate Business Management Analyst, Process and Special Project Section, Policy, Planning and Evaluation Division, Headquarters

Action: Approve the Board Meeting Minutes of May 25, June 15-16, and June 30-July 1, 2004.

Action: Approve the Board Meeting date changes (Exhibit 8.7).

Action: Approve Revenue and Taxation Code section 6355, Coins and Bullion Bulk Sale Adjustment (Exhibit 8.8).

Action: Approve proposed revisions to Audit Manual Chapter 1, Introduction (Exhibit 8.9).

Action: Approve proposed revisions to Audit Manual Chapter 9, Grocers (Exhibit 8.10).

Action: Approve proposed revisions to Audit Manual Chapter 11, Advertising Agencies, Graphic Artists, Printers and Related Enterprises (Exhibit 8.11).

Action: Approve extension of time to complete and submit 2004-05 Local Assessment Rolls pursuant to Revenue and Taxation Code section 155 granted to Alpine County (Exhibit 8.12).

## **CHIEF COUNSEL MATTERS**

### **RULEMAKING—SALES AND USE TAX**

Janice Thurston, Assistant Chief Counsel, Business Taxes Division, Legal Department, was available to answer questions regarding the Section 100 Changes to Sales and Use Tax Regulations.

Tuesday, August 24, 2004

**Section 100 Change to Sales and Use Tax Regulation 1532, Teleproduction or Other Postproduction Service Equipment**

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted the Section 100 Change to *Sales and Use Tax Regulation 1532, Teleproduction or Other Postproduction Service Equipment* (Exhibit 8.13).

**Section 100 Change to Sales and Use Tax Regulation 1574, Vending Machine Operators**

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted the Section 100 Change to *Sales and Use Tax Regulation 1574, Vending Machine Operators* (Exhibit 8.14).

**Section 100 Change to Sales and Use Tax Regulation 1610.2, Mobilehomes and Commercial Coaches**

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted the Section 100 Change to *Sales and Use Tax Regulation 1610.2, Mobilehomes and Commercial Coaches* (Exhibit 8.15).

**Section 100 Change to Sales and Use Tax Regulation 1805, Aircraft Common Carriers**

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted the Section 100 Change to *Sales and Use Tax Regulation 1805, Aircraft Common Carriers* (Exhibit 8.16).

**Section 100 Change to Sales and Use Tax Regulation 1825, Aircraft Common Carriers**

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted the Section 100 Change to *Sales and Use Tax Regulation 1825, Aircraft Common Carriers* (Exhibit 8.17).

**OTHER CHIEF COUNSEL MATTERS**

**Limited Peace Officer Status**

Timothy W. Boyer, Chief Counsel, made introductory remarks regarding the Limited Peace Officer Status (Exhibit 8.18).

Tuesday, August 24, 2004

Action: Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved alternative three, granting limited peace officer powers to 27 Investigations Division staff and requiring a report to the Board in six months. The authority to grant limited peace officer status will expire in six months unless specifically renewed by the Board.

**SALES AND USE TAX APPEALS HEARINGS****Gerald B. and Jacqueline Rees, 209628**

11-8-00, \$16,502.88 Tax

For Petitioner:

Gerald B. Rees, Taxpayer

Jacqueline G. Rees, Taxpayer

For Sales and Use Tax Department:

Chris Schutz, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioners purchased the motor home for use in California.

Whether petitioners received misinformation qualifying for relief from the tax.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

**Bruce E. and Denise D. Marks, 153917**

10-1-98 to 3-31-01, \$40,093.36 Tax, \$00.00 Penalty

For Petitioner:

Abe Golomb, Representative

For Sales and Use Tax Department:

Randy Ferris, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issue: Whether petitioner's charges for servicing portable toilets leased by petitioner should be considered nontaxable labor charges because the service charges were optional to the lessees.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

**FINAL ACTION ON HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE CLAIM HEARINGS HELD AUGUST 24, 2004****Charlotte L. Aszklar, et al., 246142**

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

**Richard H. Francis, Jr., 251091**

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.



**Tuesday, August 24, 2004**

Beatrice Stepp, 251285

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES  
HEARINGS HELD AUGUST 24, 2004**

Anthony L. Edwards, 241056

Final Action: Ms. Mandel moved to sustain the action of the Franchise Tax Board. The motion was seconded by Mr. Chiang but failed to carry, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden, Mr. Parrish and Mr. Leonard voting no.

Upon motion of Ms. Migden, seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel voting no, the Board reversed the action of the Franchise Tax Board.

Walter B. Dilts, Jr., and Phyllis A. Kappeler, 238349

Final Action: Ms. Migden moved to sustain the action of the Franchise Tax Board. The motion was seconded by Ms. Mandel. Mr. Parrish made a substitute motion to sustain the action of the Franchise Tax Board on the issue of residency and grant abatement of interest from August 8, 2000 to May 22, 2001 to allow for the ministerial delay in scheduling the protest hearing, and from January 1, 2002 to February 10, 2003 to allow for the ministerial delay in issuing the notice of action. The substitute motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Migden, seconded by Ms. Mandel and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard voting no, Mr. Parrish abstaining, the Board sustained the action of the Franchise Tax Board.

Richard Hensel, 235794

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

David and Elizabeth Kuhn, 246267

Final Action: Ms. Mandel moved to sustain the action of the Franchise Tax Board. The motion was seconded by Mr. Chiang. Mr. Parrish made a substitute motion to sustain the action of the Franchise Tax Board and recommend favorable consideration of the request for relief filed by the taxpayer with the California Victim Compensation and Government Claims Board. The substitute motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

Tuesday, August 24, 2004

**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING**

Diana L. Watega, 239595

1995, \$10,100.00 Tax, \$2,525.00 Late Filing Penalty

1996, \$11,138.00 Tax, \$2,784.50 Late Filing Penalty

1997, \$10,942.00 Tax, \$2,735.50 Late Filing Penalty

1998, \$9,231.00 Tax, \$2,307.75 Late Filing Penalty

1999, \$9,437.00 Tax, \$2,359.25 Late Filing Penalty

For Appellant: Waived Appearance

For Franchise Tax Board: Bruce Langston, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has demonstrated error in the proposed assessment.

Whether appellant has shown that respondent improperly imposed late filing penalties.

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board.

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD AUGUST 24, 2004**

Reynaldo Castro, 237011

Final Action: Upon motion of Ms. Migden, seconded by Ms. Mandel and duly carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang voting no, the Board sustained the action of the Franchise Tax Board and imposed a \$1,000.00 frivolous appeal penalty.

Douglas C. Roberts, 221165

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board sustained the action of the Franchise Tax Board and imposed a \$1,500.00 frivolous appeal penalty.

**FINAL ACTION ON SPECIAL TAXES APPEALS HEARINGS HELD AUGUST 24, 2004**

Raffi Ohanes Sepetjian, 195054

Final Action: Ms. Mandel moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Migden. Mr. Parrish made a substitute motion to reduce the total tax by 54.29 percent. The substitute motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Mandel, seconded by Ms. Migden and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard voting no, Mr. Parrish abstaining, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

**Tuesday, August 24, 2004**

Ashok V. Parmar, 89000005150, 89000959630

Purnima A. Parmar, 89816, 89823

Mahinder Parmar, 89678, 89819

Final Action: Ms. Migden moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Mandel. Mr. Leonard made a substitute motion to grant the petition with regards to *Ashok V. Parmar, 89000005150, 89000959630*. The substitute motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Ms. Migden moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Mandel. Mr. Parrish made a substitute motion to reduce the fraud penalty to negligence, otherwise redetermine as recommended by the Appeals Division. The substitute motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Migden, seconded by Ms. Mandel and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Leonard voting no, Mr. Parrish abstaining, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

#### **FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD AUGUST 24, 2004**

Gerald B. and Jacqueline Rees, 209628

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Bruce E. and Denise D. Marks, 153917

Final Action: Mr. Parrish moved to grant the petition. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Migden, seconded by Ms. Mandel and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

The Board recessed at 12:33 p.m. and reconvened at 1:40 p.m. with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

#### **SALES AND USE TAX APPEALS HEARINGS**

Kathreen Leann Writesman, 214649

7-1-96 to 4-30-01, \$32,745.36 Tax, \$1,104.00 Late Prepayment Penalty

For Petitioner:

Jesse McClellan, Representative

Kathreen Writesman

For Sales and Use Tax Department:

Robert Tucker, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Tuesday, August 24, 2004

Issue: Whether petitioner is subject to liability as a corporate officer for the tax liability of Unique Performance, Inc., dba Elite Performance Auto Body-Paint, for period July 1, 1996 through April 30, 2001.

Action: Upon motion of Ms. Mandel unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board ordered that the petition be submitted for decision.

**Davinder Singh Pabla, Mohinder Singh Pabla and Dial Kaur Pabla, 194819, 205731**

4-1-99 to 9-30-99, \$3,200.18 Tax, \$320.01 Negligence Penalty, \$320.02 Finality Penalty

10-1-99 to 3-31-02, \$14,331.25 Tax, \$1,433.15 Negligence Penalty

For Petitioner: Rattan Dhaliwal, Attorney

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether it is illegal to use an observation test to establish audited taxable sales.

Whether the evidence shows that the observation test results in excessive audited taxable sales.

Whether the negligence penalty was properly applied.

Whether relief from the penalty for failure to timely pay the determination is warranted.

Action: The Board deferred consideration of this matter to the October 19, 2004 meeting.

**Von V. and Esther H. Riddle, 190913**

5-30-01, \$6,379.87 Tax, \$00.00 Penalty

For Petitioner: Von Riddle, Taxpayer

For Sales and Use Tax Department: Anthony Epolite, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioners have established that they did not purchase the motor home for use in California.

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 15 days to respond, and the Appeals Division 30 days thereafter to review the petitioner's supporting documents, the Department's response and provide its recommendation to the Board.

**Summit Aviation, Inc., 164643**

6-21-99, \$00.00 Tax, \$25,381.25 Failure to File Penalty

For Petitioner: George P. Rice, CPA

For Sales and Use Tax Department: Chris Schutz, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether relief from the penalty for failure to file a return is warranted.

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board ordered that the petition be submitted for decision.

Tuesday, August 24, 2004

**LOCAL TAX REALLOCATION HEARING**

Rich Goodrich, Business Taxes Specials, Headquarters Operations Division, Sales and Use Tax Department made introductory remarks regarding Local Tax Reallocation hearing, the City of Santa Monica.

Speakers: Al Koch, General Tax Counsel, MBIA MuniServices

City of Santa Monica, 255568

10-1-98 to 3-31-01, \$338,324.00 Tax

For Petitioner:

Robert Cendejas, Attorney

Linda Moxon, Attorney

Richard Bloom, Mayor, City of Santa Monica

City of Ontario/For Affected Jurisdiction:

Guy Boccasile, Investment Office

City of Commerce/For Affected Jurisdiction:

Douglas Boyd, Attorney

For Department:

John Waid, Tax Counsel

Issues: Whether the local sales tax attributable to Internet orders made during the period October 1, 1998 to December 31, 1999, should be allocated directly to the retailer's headquarters in the City of Santa Monica, or to their warehouse located in the City of Commerce.

Whether the local sales tax attributable in Internet orders, made during the period January 1, 2000 to March 31, 2001 should be allocated directly to the retailer's headquarters in the City of Santa Monica, or indirectly through the medium of the Los Angeles Countywide Pool.

Whether the Department is required to reallocate local taxes pursuant to Revenue and Taxation Code section 7209, and if not, whether it is appropriate to do so in this case.

The Board recessed at 3:09 p.m. and reconvened at 3:17 p.m. with Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

City of Santa Monica, 255568

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board ordered that the petition be submitted for decision.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING**

Mark R. Raus, 220515

2000, \$7,953.00 Tax, \$1,988.25 Late Filing Penalty, \$518.11 Claim for Refund

For Appellant:

Mark R. Raus, Taxpayer

David Rose, Witness

For Franchise Tax Board:

Christine Roloff, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has demonstrated error in the proposed assessment.

Whether there is reasonable cause for abatement of the late filing penalty.

Whether the Board has jurisdiction to review respondent's imposition of a frivolous return penalty and, if so, whether such penalty should be abated.

Whether the Board should impose a frivolous appeal penalty.

Tuesday, August 24, 2004

Action: Upon motion of Mr. Chiang and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board submitted the appeal for decision.

### PROPERTY TAXES HEARING

Global Crossing Telecommunications, Inc. (2207), 253378

2000-2001, \$35,650,000.00 Unitary Escaped Value, \$3,565,000.00 Penalty, \$9,118,500.00 In-Lieu Interest

For Petitioner: Peter Michaels, Attorney

For Property and Special Taxes Department: Sophia Chung, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board-adopted escaped assessment should be reduced to reflect economic obsolescence.

Whether relief from the penalty should be granted.

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Division, Legal Department, stated for the record that the taxpayers are in agreement with the staff's recommendation as to Issue 1.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and duly carried, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang voting no, Ms. Mandel not participating in accordance with Government Code section 7.9, Ms. Migden absent, the Board ordered to abate the penalty.

Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, Ms. Migden absent, the Board reduced the escaped assessments from \$35,650,000 to \$29,590,000 and abated the penalties.

### PUBLIC HEARING

#### **Proposed Amendments to Property Tax Rule 462.500, Change in Ownership of Real Property Acquired to Replace Property Taken by Governmental Action or Eminent Domain Proceedings**

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Division, Legal Department, made introductory remarks regarding the proposed amendments to Property Tax Rule 462.500, *Change in Ownership of Real Property Acquired to Replace Property Taken by Governmental Action or Eminent Domain Proceedings*, which interprets "comparability" to substantially conform to the concept of "like-kind" property in Internal Revenue Code section 1031. The amendment also adds definitions for "displaced," "real property," and "adjusted base year value," adds an additional date after which replacement property must be acquired, and clarifies the base year value to be transferred (Exhibit 8.19).

**Tuesday, August 24, 2004**

Speakers: James R. Schneider, Attorney, representing property owners, San Diego  
Andrew Freeman, Senior Deputy County Counsel, San Diego County Assessor,  
representing the California Assessors Association

Action: Mr. Parrish moved to adopt the proposed amendments to Property Tax Rule 462.500, *Change in Ownership of Real Property Acquired to Replace Property Taken by Governmental Action or Eminent Domain Proceedings*, as published. The motion was seconded by Mr. Chiang but no vote was taken.

The Board deferred consideration of this matter to the next Sacramento Board meeting.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD AUGUST 24, 2004**

Kathreen Leann Writesman, 214649

Final Action: Mr. Chiang moved to redetermine the petition as recommended by the Appeals Division. The motion was seconded by Ms. Mandel but failed to carry, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, Ms. Migden absent.

The Board deferred consideration of this matter to the next Sacramento Board meeting.

Summit Aviation, Inc., 164643

Final Action: Ms. Mandel moved to redetermine the petition as recommended by the Appeals Division. The motion was seconded by Mr. Chiang. Mr. Parrish made a substitute motion to delete the penalty. The substitute motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel voting no.

The Board deferred consideration of this matter to the next Sacramento Board meeting.

**FINAL ACTION ON LOCAL TAX REALLOCATION HEARING HELD AUGUST 24, 2004**

City of Santa Monica, 255568

Final Action: Upon motion of Mr. Chiang, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board allocated for the first 5 quarters 70 percent to the City of Santa Monica and 30 percent to the City of Commerce, and allocated for the remaining 4 quarters 100 percent to the City of Santa Monica.<sup>1</sup>

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<sup>1</sup> Addendum to original action taken later in the day.

Tuesday, August 24, 2004

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES  
HEARING HELD AUGUST 24, 2004**

Mark R. Raus, 220515

Final Action: Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board submitted the petition, allowing the taxpayer to fax brokerage statements to staff, and ordered the Department to provide a final recommendation to the Board at the next Sacramento Board meeting.

**ADMINISTRATIVE SESSION****BOARD COMMITTEE REPORT****Property Tax Committee**

Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board approved the Property Tax Committee report (Exhibit 8.20).

**OTHER ADMINISTRATIVE MATTERS****Executive Director's Reports**

Ramon Hirsig, Executive Director, made introductory remarks regarding monetary awards for the Superior Accomplishment Award Program.

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board approved monetary awards for the Superior Accomplishment Award Program (Exhibit 8.21).

Mr. Hirsig reported on the Budget Report - 55 Collector Recruitment, stating that all positions have been filled two months ahead of schedule. The agency will continue to fill vacancies while meeting its salary savings level.

Additionally, Mr. Hirsig spoke on Communications Chief recruitment. He stated that the acceptance of applications closed on August 20, 2004. He anticipates distributing a list of candidates to the Members by September 7, 2004, with a tentative date of September 21, 2004 for Board Member approval of the position.

**FINAL ACTION ON LOCAL TAX REALLOCATION HEARING HELD AUGUST 24,  
2004**

City of Santa Monica, 255568

Final Action: Upon motion of Mr. Chiang, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board ordered an addendum to the previous vote to include the 10<sup>th</sup> quarter to City of Santa Monica.



**Tuesday, August 24, 2004**

## **ADMINISTRATIVE SESSION**

### **OTHER ADMINISTRATIVE MATTERS**

#### **Budget Change Proposal**

Raye Zentner, Deputy Director, Administration Department, made introductory remarks on Proposition 10 - Ongoing Cigarette and Tobacco Products Taxes Increase Workload (Exhibit 8.22).

Action: The Board deferred consideration of this matter.

#### **Offers-in-Compromise Recommendations**

Jean Ogrod, Assistant Chief Counsel, Settlement and Administration Division, Legal Department, made introductory remarks regarding the Offers in Compromise Recommendations.

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board approved the Offers in Compromise of *Media Hippo, Inc.*, *William Ferrari*, *Larry Mitchell Crawford*, *Kimberly A. Jess*, and *Ralph Williams*, as recommended by staff.

## **ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 4:16 p.m. and reconvened immediately in closed session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

### **CLOSED SESSION**

The Board met to discuss settlements (R&T Code § 7093.5, 30459.1 and 50156.11) and personnel matters (Govt. Code § 11126(a)).

The Board recessed at 4:22 p.m. and reconvened immediately in open session with Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

## **ADMINISTRATIVE SESSION**

### **OTHER ADMINISTRATIVE MATTERS**

#### **Budget Change Proposal**

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Migden absent, the Board ordered to extend the limited term positions for 3 years.

**Tuesday, August 24, 2004**

The Board adjourned at 4:23 p.m.

*The foregoing minutes are adopted by the Board on October 19, 2004.*

Note: The following cases were removed from the calendar prior to the meeting: *Cheryl L. Johnson, 215645; Angela D. Dayan, 187063, 209386; A.D., Inc., 269686; Ayesha H. Ayesha, 235815.*